

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 13, 2005

10:06 A.M.

Reported by:
Peter Petty
Contract No. 150-04-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Acting Chairperson

Arthur Rosenfeld

James D. Boyd

John Geesman

STAFF PRESENT

Scott Matthews, Acting Executive Director

William Chamberlain, Chief Counsel

Song Her, Secretariat

Roger Johnson

Gary Fay

Sue Kateley

Gordon Schremp

Tom Glaviano

Elaine Hebert

Dick Ratliff

Adam Pan

Barbara Byron

Nancy Libonati

Joe O'Hagan

Guido Franco

Caryn Holmes

Mike Jaske

Kevin Kennedy

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Chris Ellison, Attorney
Ellison, Schneider and Harris, LLP

Steven Kelly
Independent Energy Producers Association

Scott Galati, Attorney
representing Roseville Energy Park

Bob Hren
Roseville Energy Park

Gina Grey
Western States Petroleum Association

David A. Smith
bp America, Inc.

Jay McKeeman
California Independent Oil Marketers Association

Ronald M. Van De Pol
Van De Pol Enterprises, Inc.

Craig Lease
L&L Suppliers
Stockton Roofing

Gregory S.G. Klatt, Attorney
Douglass and Liddell
representing APS Energy

Greggory L. Wheatland, Attorney
Ellison, Schneider and Harris, LLP

Mona Tierney
Constellation NewEnergy

Jennifer Chamberlin
Strategic Energy

Laura Genao
Southern California Edison Company

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ALSO PRESENT

Christopher J. Warner, Attorney
Pacific Gas and Electric Company

Joseph Klobardanz
San Diego Gas and Electric
Semptra Energy Utilities

Stuart Hemphill
Southern California Edison Company

Kevin Woodruff
Woodruff Expert Services

Randy Howard
Los Angeles Department of Water and Power
(via teleconference)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 10:06 a.m.

3 ACTING CHAIRPERSON PFANNENSTIEL: The
4 meeting will come to order. Pledge, Commissioner
5 Geesman.

6 (Whereupon, the Pledge of Allegiance was
7 recited in unison.)

8 ACTING CHAIRPERSON PFANNENSTIEL: Good
9 morning. Before we start the business meeting I'd
10 like to make a change to the order of the agenda.

11 We have items 12 through 17, all of
12 which deal with a common subject, which is the
13 appeal of the confidentiality rulings. And I'd
14 like to take them all as a group after we've gone
15 through the remainder of the agenda and the
16 reports. So we'll go all through everything else
17 on the business meeting and then take up numbers
18 12 through 17.

**[BUSINESS MEETING ITEMS NOT RELATED TO THE PROPOSED REGULATIONS TO IMPLEMENT
THE REQUIREMENTS OF THE PETROLEUM INDUSTRY INFORMATION ACT HAVE BEEN REDACTED
FROM THIS COPY OF THE TRANSCRIPT]**

21 ACTING CHAIRPERSON PFANNENSTIEL: Item
22 3, Petroleum Industry Information Reporting Act.
23 Possible adoption of proposed amendments to the
24 Petroleum Industry Information Reporting Act
25 regulations published as express terms of proposed

OAL FILE NUMBER: Z-04-1123-01

TRANSCRIPT OF HEARING TO ADOPT PROPOSED REGULATIONS

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 regulations dated March 16, 2005. Ms. Kateley.

2 MS. KATELEY: Thank you, ViceChair
3 Pfannenstiel and Commissioners. My name is Sue
4 Kateley and I work in the transportation fuels
5 office here at the Energy Commission.

6 The item before you is a rulemaking to
7 add new reporting requirements to the Energy
8 Commission's petroleum industry information
9 reporting act regulations.

10 This proposal is the first modification
11 since the early 1980s. The proposed changes will
12 expand the type of data reported, increase the
13 number of participants required to report
14 information to the Commission. It also increases
15 the number of companies that must file weekly,
16 monthly and annual reports.

17 The reporting requirements in these
18 regulations are based on new statute added to the
19 Public Resources Code in 2000 and 2003.

20 The Energy Commission will use this
21 information to analyze the cause and conditions
22 that lead or may lead to problems with fuel
23 supplies or fuel prices. This data is important
24 to developing state policies that can alleviate
25 problems, and also to assess proposed policies for

1 their potential effect on supplies and prices.

2 It also helps to provide informed
3 responses to inquiries from members of the public,
4 the Legislature and the Governor.

5 Last and perhaps most important, this
6 information can be used in the event of
7 emergencies, local, statewide and in neighboring
8 states. I mention neighboring states because
9 California is important to Arizona and Nevada fuel
10 supplies.

11 I will briefly summarize the changes.
12 The new weekly reporting requirements collect
13 information on production, inventory, shipments
14 and wholesale prices. The Energy Commission also
15 receives information on weekly wholesale
16 deliveries and prices in the major regions of
17 California. These companies are refiners,
18 importers, exporters, pipeline operators and
19 terminal operators.

20 The new monthly reporting requirements
21 apply to the same companies reporting weekly data
22 and approximately 80 additional companies. The
23 monthly reporting requirement is similar to the
24 weekly data, but applies to a larger population of
25 companies and is more accurate than weekly

1 reports.

2 Those additional companies require to
3 report, by the way, are marketers who sell 20,000
4 barrels of fuel, that is 840,000 gallons of fuel,
5 a month.

6 Both the weekly and monthly reports
7 provide information that can be used to estimate
8 demand, determine wholesale price trends, evaluate
9 constraints on distribution and storage, volumes
10 of product shipped, and average wholesale prices.

11 The new annual reports added by these
12 proposed regulations provide information on
13 storage facilities in California and retail
14 fueling stations. This information is
15 particularly important in light of projections
16 indicating California will become more dependent
17 on imported products to meet its transportation
18 needs.

19 The retail station information will be
20 used, for example, in assessing regional supply
21 and price effects, policy proposals that may
22 restrict retail ownership arrangements.

23 During the 45-day comment period three
24 parties filed comments. The Western States
25 Petroleum Association; the California Independent

1 Oil Marketers Association; and the Coalition for a
2 Safer Environment.

3 While staff was able to incorporate many
4 of the comments we are aware that there continue
5 to be areas of concern. CIOMA suggested that the
6 retail fueling station information is already
7 publicly available. We have researched this
8 extensively and found that while some data is
9 available it is incomplete and could not be used
10 to replace this reporting requirement.

11 WSPA asked that the Commission use
12 either weekly or monthly reporting to reduce
13 reporting of redundant information. The monthly
14 and weekly data requirements are not the same.
15 The information collected on the weekly and
16 monthly forms is markedly different.

17 Although there is some similarity in
18 both weekly and monthly reports reflecting total
19 product volumes and prices, depending on the
20 report, they are not similar in that monthly data
21 cannot provide trends and patterns on weekly
22 prices, productions and shipments. These trends
23 and patterns are critical to understanding
24 constraints that may be of a seasonal nature or
25 result of a brief interruption in supply or drop

1 in inventory.

2 Weekly data is reported within a few
3 days of the end of the week cycle. Monthly data
4 is reported as much as 30 days after the close of
5 the month. Last, monthly data is reconciled with
6 other monthly data sources and cannot be
7 substituted with the weekly reports.

8 CIOMA asked to exclude major marketers
9 from reporting their monthly sales, volumes and
10 prices. They have indicated that there will be
11 hardships related to the cost of reprogramming
12 custom software. The information on sales volumes
13 and prices that occurs through independent
14 companies versus refinery operators is important
15 to analyzing price and supply issues and trends.

16 The companies required to report as a
17 result of the proposed regulations are the same
18 companies that are already required to file a
19 similar report with the Federal Energy Information
20 Administration.

21 The industry also expressed concerns
22 that the forms were not part of the rulemaking.
23 The Administrative Procedures Act exempts forms
24 and instructions, however staff has made draft
25 forms and instructions available, help workshops

1 and met with industry to take comment on them
2 outside of the rulemaking.

3 As a result of those interactions staff
4 has changed the forms and instructions. Once the
5 rulemaking is complete, draft forms and
6 instructions will be made available again for
7 review and comment before they're final.

8 Before I finish I would like to mention
9 that the industry has been cooperative throughout
10 this process and they've worked with us on getting
11 it right. We really appreciate their input.

12 We have narrowed the differences through
13 productive discussions and exchanges of
14 information. We would be happy to respond to any
15 questions. Joining me to respond to questions is
16 Gordon Schremp, our Senior Staff Specialist on
17 crude oil and petroleum product issues; and Tom
18 Glaviano from the General Counsel's Office.

19 Thank you for your consideration.

20 ACTING CHAIRPERSON PFANNENSTIEL: Thank
21 you, Ms. Kateley. We have a number of parties who
22 have requested to speak on this time. So why
23 don't we hear their comments. Gina Grey.

24 MS. GREY: Thank you, Madam Chair,
25 Commissioners and Staff. For the record my name

1 is Gina Grey. I work for the Western States
2 Petroleum Association, commonly known as WSPA.

3 Overall WSPA can understand the need to
4 balance the sharing of information with government
5 in order to allow a better comprehension of our
6 industry, with a need to minimize intrusion into
7 private business matters and decisionmaking.

8 In return we hope the CEC understands
9 and recognizes the level of burden this kind of
10 detailed reporting places on our industry in terms
11 of the commitment of resources. It is not as
12 minor as often portrayed.

13 We do appreciate the Commission's
14 stakeholder process and staff attempts to work
15 with our industry on the amendments, especially
16 Sue Kateley's efforts. We also appreciate the
17 additional confidentiality provisions dealing with
18 situations where more informal submittal takes
19 place.

20 As you are well aware our industry
21 considers the kind of information requested in
22 these reports as highly confidential. And we hope
23 that government employees, both regular and
24 contract, are made familiar with these
25 confidentiality provisions.

1 We want to insure the CEC is committed
2 to working closely with our industry on actual
3 forms and guidelines. The specific report forms
4 were not included as an appendix to the
5 regulations as part of this review. And although
6 we are told this is not customarily done, we are
7 still concerned that staff is working on revising
8 the September of '04 forms and want to insure we
9 can review and comment on them before they are
10 finalized and adopted. And I think from Sue's
11 comments just a moment ago it sounds like that
12 will take place.

13 Also we encourage the continuation of
14 private meetings or tutorials with individual
15 companies to help insure full compliance, since
16 the requirements are very detailed and complex,
17 reflecting the complexity of our industry's
18 operations.

19 Some of our members may not have geared
20 up internally for the formal reporting since they
21 may have elected to not participate in the
22 voluntary reporting over the past year. We would
23 appreciate any flexibility the Commission can
24 provide during the transition phase into full
25 reporting over a several-month period of time.

1 The majority of our 13 pages of
2 previously submitted comments have been
3 incorporated or dealt with in some fashion by
4 staff. There are still, however, a number of
5 outstanding issues we have concern with and I'll
6 mention three in particular.

7 First, we have repeatedly observed to
8 staff that the proposed monthly requested
9 information was almost the same -- and I know Sue
10 mentioned they're not identical, which we agree
11 with -- as that requested weekly. Therefore, we
12 suggested in our January comments that the monthly
13 reports be eliminated and that the Commission use
14 slightly expanded weekly reports to capture the
15 required information.

16 CEC Staff responded that since the month
17 doesn't normally end at the end of a week, they
18 didn't want to prorate the last week's data to
19 calculate a monthly report. Staff's official
20 response failed to include this concern, but quote
21 that EIA believes the monthly data is more
22 accurate or better, and is useful for more in-
23 depth review.

24 We question this new rationale for
25 retaining the monthly reports. The weekly

1 information is the most timely and likely the most
2 useful to the Commission. Limited company assets
3 should be focused on collecting and reporting the
4 best weekly information possible.

5 Although the monthly data may be
6 slightly more accurate for any individual company
7 for a specific report period, there is no evidence
8 that supports the idea that the monthly data is
9 any better for purposes of evaluating short- or
10 long-term trends, evaluating seasonal differences
11 or making future projections.

12 The alleged improvement in monthly data
13 quality doesn't justify the significant
14 duplication of effort to report the monthly
15 information. We therefore request again that the
16 monthly reports be eliminated, except for one
17 major exception I will speak about in a minute.

18 At a minimum we would request that the
19 Commission direct the staff to report back to the
20 Commission, in a six-month period after obtaining
21 the new weekly and monthly information, with an
22 evaluation of whether or not the monthly reports
23 are really that much better and useful, and to
24 justify the continued duplication of reporting
25 effort.

1 Second. Relative to DTW reporting.

2 While WSPA has no knowledge or information on the
3 particular pricing policies or practices of our
4 members, we believe there may be important
5 differences in the way individual companies handle
6 such matters as rent, rebates and other price-
7 related issues.

8 WSPA has indicated several times now in
9 written and oral comments that our companies are
10 concerned about the mandatory weekly DTW
11 reporting.

12 Our first concern has to do with the
13 usefulness of the new data requirement which
14 mandates a volume balanced calculation on a weekly
15 basis. DTW pricing practices vary between market
16 participants. As stated in our comments, we
17 believe this calculation does not capture what is
18 actually going on in the marketplace, as the DTW
19 invoice may or may not reflect the actual cost to
20 the dealer given the application of rebates,
21 volume discounts, rent and other competitive
22 adjustments that may occur on an individual
23 company basis.

24 Also, the sales volume information
25 needed for the requested volume-adjusted DTW

1 weekly reports has a two- to three-day lag from
2 the actual DTW pricing information. This lag time
3 between the data sources availability raises
4 questions about the accuracy of the truing up
5 calculations of the submitted information. This
6 is especially true with weekly submittals where a
7 three-day lag could distort the final numbers.
8 Monthly submittals of the weighted information
9 significantly smooth out these distortions and
10 allow for a more accurate data set.

11 We found the CEC's response to comments
12 document unsatisfactory in its response to our
13 concerns. The CEC's response waives their comment
14 by stating that the Public Resources Code requires
15 weekly and monthly data to be reported to the
16 Energy Commission. But we believe the DTW needs
17 special consideration. WSPA's request is that the
18 DTW information and volume calculations be
19 required on a monthly basis rather than weekly.

20 Third. WSPA commented in January on the
21 new requirement for refiners to file flow diagrams
22 and site maps annually. The actual requirement is
23 to annually submit flow diagrams of the refinery
24 showing process units, interconnecting lines,
25 input/output streams, tank farms, location of

1 tanks, pipeline connections, marine facilities, et
2 cetera, et cetera, et cetera. All clearly labeled
3 with the capacity or actual rates being shown.
4 There is also a mention of site maps being to
5 scale.

6 This requirement had not previously been
7 discussed with our industry and has caused a
8 significant degree of concern. The concern is
9 based on a number of factors, not the least of
10 which is the additional burden of supplying all of
11 this information. Another very real concern is
12 the security threat to our facilities and the
13 associated risks of this type of information
14 getting into the wrong hands, even with the
15 agency's established confidentiality procedures.

16 The CEC Staff response alluded to the
17 fact there is already a requirement to file
18 pipeline maps and specs in the existing
19 regulations. We can find no existing requirement
20 for refiners, however. We also can't find any
21 basis in statute for this. And I will not go into
22 all of our detailed comments on this, but will
23 probably provide that to Sue at a later time.

24 And last, a very minor comment relative
25 to distribution of nonCalifornia fuels, and this

1 can probably be handled later, too. But a
2 clarification is needed regarding whether trucks
3 can be aggregated as in 3F and G.

4 Thank you very much.

5 ACTING CHAIRPERSON PFANNENSTIEL: Thank
6 you. Questions?

7 COMMISSIONER GEESMAN: Madam Chair.

8 ACTING CHAIRPERSON PFANNENSTIEL: Yes,
9 Commissioner Geesman.

10 COMMISSIONER GEESMAN: I wanted to
11 follow up on your comments about confidentiality.
12 And as I think you know, I have a 19-year gap in
13 my personal recollection of the Commission's
14 experience in this area, but are you aware of any
15 instance where there has been a breach by our
16 employees or contractors of our confidentiality
17 requirements?

18 MS. GREY: Good question. I would
19 respond, Commissioner, by saying that no, we don't
20 have any examples at this point in time. I think
21 staff have been, by and large, very good regarding
22 confidentiality.

23 There is always, however, of a high
24 degree of --

25 COMMISSIONER GEESMAN: Sure.

1 MS. GREY: -- concern in our industry
2 regarding --

3 COMMISSIONER GEESMAN: I understand.

4 MS. GREY: -- this. It's not just with
5 the California Energy Commission, it's with any
6 kind of very competitively sensitive data being
7 put in government's hands. You do have contract
8 staff, not only just regular staff, who handle
9 this material. And it's a huge concern of ours
10 which actually was one of the reasons why we did
11 work with staff to incorporate more of a
12 confidentiality protection relative to data that
13 is supplied on a voluntary basis, or maybe done
14 over the phone, et cetera, as not part of regular
15 reporting.

16 COMMISSIONER GEESMAN: I think your
17 concern is appropriate, and I had thought that our
18 record was pretty good and --

19 MS. GREY: Correct.

20 COMMISSIONER GEESMAN: -- I'm happy to
21 hear you corroborate it.

22 MS. GREY: It has been.

23 ACTING CHAIRPERSON PFANNENSTIEL: Thank
24 you, Ms. Grey. Would the staff like to comment on
25 a couple -- any of the points that Ms. Grey

1 raised?

2 MS. KATELEY: Gordon.

3 MR. SCHREMP: My name is Gordon Schremp.

4 I'm the senior fuels specialist on staff in the
5 fuels office of the California Energy Commission.

6 Thank you for the opportunity to shed
7 some additional information on these issues that
8 were raised by Gina Grey.

9 The monthly versus weekly issue has been
10 raised before. I just want to point out that
11 weekly and monthly reporting requirements, as well
12 as annual reporting requirements, have been part
13 of our data collection and data collection efforts
14 at the federal level, the EIA or Energy
15 Information Administration, for decades.

16 So we have a long history of collecting
17 information on a weekly and monthly basis. And
18 the industry has an excellent record of providing
19 said information up to this point in time, and
20 including this point in time.

21 The information is different, as Gina
22 Grey points out. In many cases it's markedly
23 different on a weekly and monthly basis. Usually
24 the monthly forms for refiners have much more
25 extensive reporting requirements on the types of

1 products produced versus the weekly form, which is
2 a simplified version.

3 With regard to our new forms, such as
4 import/exports, interstate movements, the monthly
5 forms are more detailed than the weekly forms. We
6 have simplified the weekly forms based on
7 discussions with industry because much of the
8 information we were requiring on the monthly forms
9 was unable to be obtained in the short term as
10 required to report weekly information to staff,
11 which is why we responded and simplified that form
12 and put some of the information back on the
13 monthly form to respond to those concerns.
14 So that new form actually has very different data
15 requirements on a weekly and monthly basis.

16 I think the other points were raised on
17 the close of the period, end-of-month inventories,
18 reconciliation cannot be done with a weekly form
19 versus a monthly form. We usually do as the
20 federal government does, a lot of analysis of
21 historical data. That information can easily be
22 compared when looking at months in previous years.
23 And that same comparison is not as valid on a
24 weekly basis.

25 So those are some of the main points I'd

1 like to add to the discussion on weekly versus
2 monthly.

3 The dealer tank wagon reporting
4 purposes. I think Sue mentioned that we have been
5 getting interim compliance by the companies. The
6 companies have done a fabulous job. And they have
7 been able to report this information on a weekly
8 basis. And they should be commended for that.

9 We do understand the discounts and
10 discounts is a relative term. The companies have
11 various ways of discounting or rebating some of
12 the cost of the DTW or dealer tank wagon price.
13 And that can only be done after the monthly sales
14 have closed for specific sites. So we understand
15 it's difficult for them to do that on a weekly
16 basis. So we've recognized that and we try, when
17 we use this information, to recognize that all of
18 these discounts are not accurately captured. So
19 the apparent dealer margins are lower than they
20 actually should be.

21 With regard to the flow diagrams and the
22 site maps, previously discussed or highlighted in
23 a workshop, no. As part of the regulation
24 language that has been reviewed on multiple
25 occasions by the stakeholders, yes, it has been in

1 there. And we have received some comments, as
2 Gina has shared with us today.

3 I think we do have an excellent track
4 record regarding keeping confidential information
5 inhouse and not having it released. I think that
6 was a very good question by Commissioner Geesman.

7 The difficulty in obtaining information,
8 site diagrams, flow diagrams are information that
9 in almost all cases is provided in public
10 documents concerning environmental impact reports,
11 environmental impact statements when companies go
12 to expand a refinery, do an expansion of a tank
13 farm. So, we've seen similar information. What
14 we're asking for is that information, ourselves.
15 The difference is we're keeping that information
16 confidential inhouse.

17 The flow diagrams, I think the
18 difference that should be pointed out, we are
19 looking at, and it was accurately mentioned, the
20 interconnection and the capacities and the actual
21 utilizations -- or throughputs, excuse me. And
22 this is so that we can do utilization assessments
23 of the process units of the refineries. This is
24 part of our ongoing infrastructure work, as is the
25 site maps, plot maps for the marine

1 infrastructures, the refineries and the tank farms
2 that is also part of our ongoing analysis for
3 petroleum infrastructure. And we think that's one
4 of the reasons why we believe we need this
5 information.

6 MS. KATELEY: The last point that WSPA
7 mentioned was whether or not we could aggregate
8 the nonCalifornia truck values, and we can work
9 with them on that. We're looking for the total
10 volumes, not the per-truckload volumes.

11 ACTING CHAIRPERSON PFANNENSTIEL: Thank
12 you.

13 MR. SCHREMP: Yeah, and --

14 ACTING CHAIRPERSON PFANNENSTIEL: If
15 there's another point to be made, otherwise I
16 think we should move on to the other speakers who
17 have asked to comment on this. Dave Smith from bp
18 ARCO.

19 MR. SMITH: Thank you. Dave Smith with
20 bp. We sell petroleum products through ARCO
21 service stations throughout the state.

22 First off, I would like to echo Gina's
23 comments about the appreciation to CEC Staff for
24 their efforts. I am representing bp, and the
25 comments, although generally supportive of WSPA's,

1 would like to focus in on one other comment which
2 was about the duplication of effort that the staff
3 is asking us to do relative to the weekly reports
4 and monthly reports.

5 Kind of as a matter of principle, we
6 support the goals and objectives of this rule, and
7 having the agency have the adequate information to
8 do what you need to do. We value that. We even
9 hold up the Energy Commission to other states as
10 examples of how they should consider running their
11 programs.

12 Having said that, although we support
13 giving you this information, we, in principle, are
14 concerned when we have to report it twice, so to
15 speak. And with all due respect to the staff, and
16 I do respect them immensely, the four forms in
17 question in some cases are exactly the same.

18 The four forms, and I hate to get into
19 this kind of detail, but just to make the point,
20 the W900 forms and the M900 forms, other than the
21 reporting period, are exactly the same.

22 The other two forms, the 700 series and
23 the 08 series, are very similar in the type of
24 information required. I'd say, looking through
25 each of the forms, that at least 70 or 80 percent

1 of the information is exactly the same.

2 In the case of our company, actually
3 because of our activities, the differences between
4 the weekly and monthly forms are very small.
5 Probably less than 5 percent.

6 And there is one form that there is a
7 considerable difference, and that has to do with
8 the refineries weekly and monthly forms. And
9 they, in fact, do -- the refinery does have to
10 submit additional information on a monthly basis,
11 but the refinery's a distinct unit and actually
12 our proposal, WSPA's proposal, was not to
13 eliminate any of the data from being reported to
14 you, it was just that we wouldn't duplicate the
15 reporting. So that if there was information that
16 you needed, we would provide it to you on a weekly
17 basis, and eliminate entirely the three or four
18 monthly reports. There are still two or three
19 other monthly reports that we wouldn't object to.

20 So let me kind of conclude these remarks
21 by saying that our evaluation is that because of
22 these rules we're going to be submitting about
23 1200 forms to you each year. The amount of
24 reporting is going to increase for us probably
25 three to four times, if not more.

1 We have been -- me, personally -- have
2 been one of your biggest supporters and for the
3 roles that you have played. The suggested change
4 that we're suggesting to you would reduce the
5 amount of reporting forms by roughly 15 percent.
6 I don't think that's an unreasonable request.

7 So, again, we would like to suggest that
8 the staff consider some way eliminating having to
9 report the same essential information in
10 duplicate, or essentially the same information.

11 One way would be to eliminate the
12 monthly forms in question. One way would be to
13 revise the monthly forms so that you wouldn't have
14 to report that information that you've already
15 reported on the weekly forms. Or, you know, maybe
16 the most flexibility, which may not be something
17 that you'd be open to, is let the refineries
18 choose.

19 In the case of bp and most of the WSPA
20 comments that were submitted, we were willing to
21 submit this information to you on a weekly basis
22 which would give you more information, weekly
23 basis, more timely. And the only thing we're
24 asking for is that you'd eliminate the monthly
25 reports.

1 Now, the second comment I would have,
2 I'd just summarize to say that bp definitely
3 appreciates the staff's support and work on this
4 rule. We set up a tutorial situation where some
5 of their staff came down and helped the people who
6 are actually going to fill out these forms and
7 prepare the computer programs to understand
8 exactly what was going to be required. And that
9 has been very helpful for us as a company. And
10 hopefully those type of activities can continue to
11 help make the implementation smooth and effective
12 for both of us.

13 And I'd love to entertain any questions.

14 ACTING CHAIRPERSON PFANNENSTIEL:

15 Commissioner Geesman.

16 COMMISSIONER GEESMAN: I'm having a hard
17 time figuring out what's at stake here. Why do
18 you think the staff has such an attachment to the
19 monthly reporting cycle?

20 MR. SMITH: Well, they have given us two
21 reasons. One is that originally they said that
22 they do have some of their information on a
23 monthly basis and they'd like to be able to
24 compare that in the future with historical
25 information.

1 COMMISSIONER GEESMAN: That sounds
2 reasonable.

3 MR. SMITH: Reasonable. And so we
4 suggested, well, there's no reason why you can't
5 take the weekly information and create a pseudo
6 monthly report.

7 COMMISSIONER GEESMAN: And they said
8 they had some concerns about the adjustment factor
9 there. They'd probably rather hear it from the
10 company than do their --

11 MR. SMITH: That's right.

12 COMMISSIONER GEESMAN: -- own internal
13 adjusting.

14 MR. SMITH: And we responded by saying
15 that, you know, the amount of variation, you know,
16 trying to create these pseudo monthly reports
17 would create minimal errors and would probably
18 have, in our opinion, would have little to no
19 effect on the purposes of collecting the data and
20 using it in the way that the Energy Commission
21 Staff does.

22 So we had thought that we had addressed
23 that, and actually in the written comments,
24 written response, they didn't include that reason.
25 They suggested that the monthly reports were more

1 accurate and could be more useful for in-depth
2 analysis.

3 And I guess I'd have to say that
4 certainly given the fact that the monthly reports
5 don't actually have to be turned in until 30 days
6 after the end of the month -- I guess that's right
7 -- that, you know, arguably they may be
8 incrementally more accurate; we have more chances
9 to compare.

10 But, you know, for bp, we would be
11 really concerned if our weekly reports didn't, you
12 know, coincide with our monthly reports. In fact,
13 as we've been talking about how we're going to
14 comply with these rules, we've said we have to
15 check. I mean it would be kind of shame on us if
16 we started, you know, if we reported four or five
17 weekly reports, and then at the end of the month
18 we gave a monthly report with fairly significant
19 different numbers.

20 COMMISSIONER GEESMAN: Yeah, but you've
21 got to acknowledge your company's probably a
22 little higher up the food chain than some of the
23 other reporting entities.

24 MR. SMITH: Certainly, you could very
25 well say that. But I think that companies are

1 going to have to deal with these on a case-by-case
2 basis. And I think that many companies that are
3 maybe not up as far the food chain as we are,
4 using your words, will probably be doing these
5 forms manually. And, you know, they'll have the
6 data on their desk right at the time. They'll
7 fill out the weekly report, and they want to get
8 it off and get out of the way and go on to doing
9 their business, not having to worry about, you
10 know, here comes some monthly report. Gee, I'm
11 going to have to do the same thing I just did last
12 week. When I have to pull out my old weekly
13 reports and basically use them to complete the
14 monthly report.

15 So, I mean to us this is probably a
16 matter of principle more than anything else. We
17 think we work with the staff; we've supported the
18 staff; we've supported the CEC. And we're
19 suggesting what we would consider a modest change,
20 and not an unreasonable one.

21 COMMISSIONER GEESMAN: But it only
22 diminishes the number of forms your company has to
23 submit by 15 percent. So, I'm left trying --

24 MR. SMITH: You know, I'm --

25 COMMISSIONER GEESMAN: -- to balance

1 your interest in a 15 percent reduction and the
2 staff, I presume, is going to say we really need
3 this information.

4 I thought Gina had a novel idea. Maybe
5 we ought to check back after some period of time
6 as to whether we're using the information well or
7 not.

8 MR. SMITH: Well, actually I'm glad that
9 Gina brought that up, because that was one of the
10 suggestions I had. Unfortunately, I'm the one who
11 has to go to the terminal operators, the people
12 who do this, the computer people are going to
13 report it. And certainly, if that's the outcome,
14 to say okay, let's try this for six months to see
15 how much better quality these monthly reports are.
16 What advantage does this give the staff as
17 compared to the weekly reports. We'll do that.

18 I can tell you we'll, probably for those
19 six months, probably look at doing them manually,
20 those particular forms, until we finally resolve
21 the issue of whether or not we're going to do this
22 long term of not. Because the computer people
23 aren't going to want to make those changes, you
24 know, and then have to reverse it.

25 I think, as an alternative, it may be

1 that to look specifically at the data that is
2 reported on a weekly and monthly basis exactly.
3 Because there are differences. But, you know, I
4 would disagree respectfully with Gordon that I
5 don't think those differences are that
6 significant.

7 But if there are differences and you
8 want to see those on a monthly basis, those
9 greater reporting requirements, put those on the
10 monthly reports and eliminate the other data that
11 we've already given you throughout the month. So
12 that would be an alternative suggestion.

13 COMMISSIONER GEESMAN: Thank you.

14 ACTING CHAIRPERSON PFANNENSTIEL: Thank
15 you, Mr. Smith. We also have Jay McKeeman from
16 CIOMA.

17 MR. McKEEMAN: Good morning. My name is
18 Jay McKeeman; I'm with the California Independent
19 Oil Marketers Association, also known as CIOMA.

20 We do appreciate the efforts of staff in
21 meeting with us and we have been an active part of
22 the process of interacting with the agency on
23 these requirements.

24 However, we have some very serious
25 concerns. Our first -- primarily these reporting

1 requirements that we're concerned about are the
2 monthly reporting requirements, and the service
3 station reporting requirements are reaching a
4 whole new level of compliance, or people that need
5 to fill out these forms.

6 And we have serious concerns about that.
7 We've expressed those concerns all along. And
8 we've not been able to resolve those concerns with
9 staff. So that's why we're here.

10 I'd like to go through some points on
11 why we disagree that this requirement is, in fact,
12 necessary.

13 The Commission Staff report notes that
14 SB-1962 is an element of implementing these
15 requirements. CIOMA was the sponsor of that bill.
16 And I can tell you personally, and as a result of
17 our interaction with now Congressman Costa, that
18 there was no intent, nor was there a requirement
19 for CIOMA members to have to report under SB-1962.
20 And if we need to get a letter of intent from
21 Congressman Costa, we can do that. But there was
22 no intent or premonition that CIOMA members would
23 need to report under the elements of SB-1962.

24 The staff report also lists AB-1340 as
25 an implementing force for these requirements.

1 CIOMA was an active participant in the negotiation
2 of the language, especially regarding the price-
3 reporting elements. And we received assurances
4 from Mr. Schremp and Mr. Glaviano that the measure
5 would not require members of CIOMA to report under
6 the legislation. They indicated on several
7 occasions the large number of data that would be
8 gathered from our members would overwhelm their
9 system, and it didn't really have a lot of use to
10 them. So, we do not agree with the staff report
11 that these requirements are, in fact, mandated by
12 legislation. In fact, we argue the opposite.

13 Another problem that we see with the
14 analysis that's been prepared on these regulations
15 is that the Energy Commission Staff has not
16 complied with Government Code section 11346.3
17 which requires agencies to estimate the impact on
18 businesses resulting from regulations. We do not
19 see any mention of adequate analysis; we're not
20 aware of any empirical analysis done by staff to
21 fully investigate the costs of what this record
22 keeping and reporting requirement would attach to
23 businesses. And we do not see any evidence that
24 the Commission thoroughly evaluated the
25 requirements of 11346.3 in their staff report or

1 in supporting material. We would argue that this
2 rulemaking is deficient until it complies with
3 those requirements.

4 The information provided with the
5 reporting forms, and we understand that that's not
6 part of the regulation, however it is integral in
7 understanding whether the requirements apply to
8 our members, and how they apply to the members is
9 severely deficient. And we've taken a look at
10 those instructions, and there are many many
11 questions that they leave unanswered.

12 The Commission Staff has completely
13 underestimated the number of companies that would
14 have to report. And this is something that I'd
15 like to delve into a little bit right now.

16 In discussions with staff this morning
17 we understand that the intent of the reporting
18 requirement is to apply to only those companies
19 that are already reporting to the EIA.

20 Unfortunately, the regulation
21 establishes a volume threshold, and it's our
22 understanding in taking a look at the instructions
23 for the EIA forms, that EIA uses a selected sample
24 of companies; they don't necessarily use a
25 reporting threshold.

1 So it was curious to me as I got
2 involved in the investigation of who was
3 reporting. It's sporadic; it depends. EIA makes
4 up, I guess they tell you that you need to report
5 to them, and you do, because a number of our
6 members that are in the -- that exceed the
7 reporting threshold are not reporting to EIA right
8 now. And this would include a new reporting
9 requirement upon them.

10 So, we do have very serious concerns.
11 We believe at least 100 of our members are going
12 to have to report on these requirements, and that
13 that's a great variation with the number of
14 companies that the staff estimated for this
15 particular reporting form.

16 We also have concerns that the Energy
17 Commission is significantly increasing the amount
18 of data it's collecting, and yet not increasing
19 the analytical capability of staff. So, there may
20 be a significant likelihood that this information
21 gets put into the file and isn't really used in a
22 constructive manner. And that would be, as far as
23 we're concerned, a travesty.

24 We think that the Energy Commission
25 needs to take a look at what information it would

1 like to have, and what information it needs to
2 have. Especially when the information-gathering
3 process imposes significant costs on our members
4 and those costs aren't addressed in the staff
5 report.

6 I think there needs to be an
7 understanding that especially for the independent
8 oil marketer in the state, these are tough times.
9 And that the Commission should be looking at ways
10 in how to reduce the costs to those in the
11 business, rather than increase the costs and the
12 complexity of being in the business.

13 The independents are struggling. There
14 are many many other costs that they have to absorb
15 in relation to state and federal mandates. This
16 is only one of them. But at some point there is
17 going to be a straw, and I hope this one isn't it.

18 We would like the Commission to postpone
19 the adoption of this regulation. We believe there
20 are some issues that need to be worked out about
21 who's reporting under EIA; who is not reporting
22 under EIA; how the regulation language needs to
23 conform with that intent, rather than just a
24 straight volume assessment. And we also would
25 like to see additional economic analysis put into

1 the evaluation of this and presented to the
2 Commission as part of their consideration.

3 That's it.

4 COMMISSIONER GEESMAN: Madam Chair.

5 ACTING CHAIRPERSON PFANNENSTIEL: Yes,
6 Commissioner Geesman.

7 COMMISSIONER GEESMAN: I'd like to ask
8 the General Counsel's Office if it could respond
9 to the concern expressed that the staff did not
10 comply with Government Code section 11346.3
11 requiring the business impact analysis.

12 MR. GLAVIANO: Yes, that physical
13 application was filled out and approved by the
14 Department of Finance prior to the submitting of
15 the information to the Office of Administrative
16 Law. Sue Kateley has some of the numbers
17 associated with that. I think you would need to
18 take a look at it, but --

19 MS. KATELEY: We had estimated about two
20 to three hours to complete a form maximum. That
21 was less than \$150 per small businesses. The
22 fiscal impact analysis applied to just small
23 businesses. So, companies that were considered
24 large businesses were not part of the
25 consideration.

1 COMMISSIONER GEESMAN: Thank you.

2 ACTING CHAIRPERSON PFANNENSTIEL: Thank
3 you, Mr. McKeeman. We'll take the last commenter
4 on this and then perhaps ask if there are
5 additional responses. Ron Van De Pol.

6 MR. VAN DE POL: Good morning,
7 Commissioners. Thank you for the time to give a
8 marketer's point of view from our business. I'm a
9 second generation marketer. Our business was
10 started in 1959. We serve all classes of trade
11 that the monitoring report is requesting that we
12 require information on. That being retail service
13 stations, both branded and unbranded, governmental
14 agencies, commercial businesses, agriculture. We
15 supply every facet of that.

16 And while WSPA and bp have said that
17 they appreciate working through this with the
18 staff, I've got to tell you, from a marketer's
19 point of view, it's an unnecessary thing that we
20 feel is just another report we're going to have to
21 submit with no value.

22 And I'd like to go into the reasons for
23 that. Gallonage figures are something we live by.
24 And those are easy. We have reports, we can break
25 them down fairly easily and make the report.

1 But, this monitoring report is requiring
2 pricing information. Let me -- you know, I don't
3 want to go into too much detail, but I want to
4 give you an example of for us, we supply 60
5 branded stations. Each one has a different price
6 almost every day because they're in a variety of
7 areas.

8 And we supply 400 commercial accounts,
9 farming, whatever. We deliver 40 to 60 deliveries
10 a day. Those vary in price, depending upon the
11 size of the delivery, the distance that we have to
12 go.

13 And so on the reporting form you have
14 all these categories. And it's volume by class of
15 trade. And then you have price. Okay. So we
16 take, you know, 1200 deliveries, and over a month
17 you add them all up, divide by whatever number it
18 is, what value is that number?

19 I can tell you today I looked at all of
20 our station pricing and that pricing varies today
21 by 19 cents a gallon from one to the other. And
22 that's just in the service station portion. You
23 go to the wholesale it's a totally different
24 pricing mechanism.

25 We look at the cost of that as being

1 not, aside from having to reprogram, if we can do
2 that, and still manually have to do some of these
3 things. It's going to cost us at least \$30,000 a
4 year. Now that may not seem much to people in the
5 audience, but it's significant with a marketer who
6 is struggling with high prices; suppliers saying
7 you have an extended credit line, you can't go any
8 more; the bank saying, hey, we can't give you any
9 more, either.

10 We're watching our pennies and quarters
11 of a penny. You know, people ask me, well, what's
12 your profit margin. And I go, if we can eke out 1
13 percent at the end of a year in our net that's
14 been a fantastic year.

15 So every penny we spend on producing
16 reports and reporting takes away from our limited
17 bottomline.

18 It's been brought up, as Mr. McKeeman
19 said, that staff is saying well, this is only in
20 the EIA report, and that's who we're structuring
21 towards. As Jay said, that's a selected sampling,
22 okay. So right now I don't report, and I meet the
23 threshold. But, so it's not going to cost me
24 anything today. But when the EIA changes their
25 selective sampling and I'm required to report to

1 them, then I've got to do the same thing.

2 It's a cost that I don't see how pricing
3 information the staff is going to be able to
4 assimilate. And then you look at the volatility
5 of the pricing market, you have from one end of
6 the month to the other you can have a 40-cent-a-
7 gallon increase or decrease. So you price average
8 again. What value is that to determining how
9 California gets their product out?

10 Thank you.

11 ACTING CHAIRPERSON PFANNENSTIEL: Thank
12 you. Questions from the Commissioners?

13 COMMISSIONER BOYD: Well, I'd like to
14 hear the staff's response to the last gentleman's
15 concerns with regard to the price data either
16 being not useful or bordering on worthless. I'd
17 like to hear the response.

18 And frankly, while I've got the mike,
19 I'd like to also go back and have a little more
20 response to the concerns that CIOMA raised with
21 regard to the intent of the legislation and any
22 commitments that staff might have given, and see
23 if there's an understanding or misunderstanding
24 there.

25 ACTING EXECUTIVE DIRECTOR MATTHEWS: Let

1 me, before technical staff responds, let me do a
2 little bit of overview; step back a little bit
3 about why we're here, why are we looking for this
4 data, what's the use of this data.

5 As you all are well aware we're facing
6 an increasingly tight fuels market. There are
7 increasing demands on the Energy Commission to
8 provide accurate, timely information to support
9 situations when we have gasoline and other fuels
10 disruption. But also to provide information on
11 policies and legislation that have been, and I
12 would imagine, will be forthcoming again as prices
13 get high, so that we have the facts about how the
14 market is really working. And that we end up with
15 a well functioning market rather than some of the
16 Draconian measures that have been proposed in the
17 past.

18 My general view is that a lot of the
19 issues that have been raised we can resolve in
20 working on revising the forms. And the staff will
21 try to resolve any duplication issues so that you
22 aren't -- so that the industry is maximizing the
23 amount of impact they have for the amount of work
24 they're doing.

25 We did put in -- and I appreciate the

1 support, for more resources -- we did put in BCP
2 and it's working its way through the Legislature
3 for two more PY to support the effort specifically
4 to deal with this particular set of data.

5 And see what the technical staff's
6 response to the other questions are.

7 Oh, one other factor. We'd be more than
8 willing to come back in a year, after we've had a
9 chance to experience the situation, and review
10 what's worked and what hasn't worked, and
11 recommend any changes to the regulations to make
12 it more effective.

13 COMMISSIONER GEESMAN: I'd like to
14 encourage that last point.

15 ACTING CHAIRPERSON PFANNENSTIEL: Are
16 there further staff responses to any of the
17 comments we've heard?

18 MR. SCHREMP: Sure, I'll -- Gordon
19 Schremp, again. With regard to the comments by
20 Mr. Van De Pol on the variability of the data, the
21 price series in the month, we acknowledge that
22 there is a great deal of variability in price
23 information by location, by date in a monthly
24 period.

25 We do collect other price information on

1 a statewide basis through other price services to
2 understand the degree of volatility that is
3 occurring in California's marketplace.

4 I think the stronger value of the
5 monthly reporting form in coming up with an
6 average price is to compare months over periods of
7 time, recognizing that price volatility does exist
8 in all months. Price volatility may be greater
9 now than it has been say ten years ago. And price
10 volatility may be greater in specific months
11 occurring on a seasonal basis.

12 So we understand there's a volatility
13 element in the monthly averages that is not
14 captured in these forms, and we acknowledge that.
15 But we think the forms have other uses, looking at
16 what average prices are, we think there's validity
17 in comparing those across different years and
18 different months and seasons, as well.

19 But we do acknowledge that, yes, for
20 volatility it does not capture that very well
21 whatsoever.

22 COMMISSIONER BOYD: Gordon, that's a
23 fairly broad answer, though. And I agree with
24 some of what you said. But when you get down to
25 the specifics with regard to what marketers have

1 to report, you know, what the gentleman with the
2 fairly small business says he has to report, and
3 the value of the data, are you saying the answer
4 you gave applies specifically to even this niche
5 of the whole fuel chain?

6 MR. SCHREMP: I think I'll back up,
7 Commissioner Boyd, a little bit and go back to the
8 intent of which we mentioned and has been
9 acknowledged by CIOMA and Mr. Van De Pol, that our
10 intent is to collect the information from those
11 companies that are and should be reporting to the
12 federal government.

13 Our form is almost identical to the
14 federal form, except that we do break out our rack
15 price sales into branded and unbranded per
16 legislation. So our intent was not to create an
17 additional class of reporting entities to us,
18 which would incur additional burdens because they
19 have never been reporting in the past.

20 Our intent has been and is to collect
21 the information from those currently reporting to
22 the federal government. In other words, it's
23 almost a data transfer. Because they are
24 undertaking this activity and they just transpose
25 the numbers to our form, except for --

1 COMMISSIONER BOYD: But what about the
2 element he just raised of the federal report is a
3 random sample basis, i.e., obviously it moves
4 around the country depending upon EIA's desire to
5 change its sample?

6 So it sounds to me, and I just learned
7 this today in this hearing, that a lot of people
8 don't report, probably the majority don't. Some
9 small minority do. And that will change over time
10 if they want to keep their sample base fairly
11 valid by changing who they sample. How do you
12 reconcile that dilemma?

13 MR. SCHREMP: Well, we do understand
14 that EIA endeavors to obtain that representative
15 samples from the different markets. Market
16 participants do change over the year. Mr. Van De
17 Pol's company has been around a long time, so he
18 hasn't changed.

19 But there are new entrants that go into
20 the marketplace and there are companies that do
21 exit the marketplace. So EIA is trying to obtain
22 a representative sample.

23 They are struggling with the vast number
24 of participants in this class of trade. And
25 understand the diminishing return to get every

1 single drop, or attempt to do so. So they weight
2 if off. That's why they do have representative
3 sample. And we think that is good enough for our
4 purposes, as well.

5 And with regard to your specific
6 question, and that raised by Mr. Van De Pol, what
7 if all of a sudden in the future I now am required
8 by the federal government to report. That would
9 incur additional costs to comply with that federal
10 requirement as well as our requirement.

11 We do agree with that, and so we have
12 not specifically put into our analysis those
13 additional companies that could come aboard that
14 would be a new reporting entity that never ever
15 reported to the federal government before. And we
16 have not done that, sir.

17 COMMISSIONER BOYD: Well, my concern, I
18 guess, is that the industry has accepted, whether
19 they like it or not, the fact that, you know, that
20 EIA plays roulette, and the field will change.
21 And they're willing to take that gamble.

22 But I guess we're going to require the
23 same data of everybody on a continuing basis. And
24 that is a cost. I'm glad Mr. Matthews gave his
25 comment introducing why we're even considering

1 this. I, more than anyone sitting up here, have
2 been through gasoline price issues over decades
3 now, and am very sensitive to what's happened in
4 the last several years over price spikiness and
5 the concerns of the Legislature and the public and
6 the desire for more visibility in this arena.
7 Which I think we all deserve.

8 But, you know, I don't want to over-
9 burden, particularly small businesses, with things
10 that are nice, but are questionable in terms of
11 their validity. So I'm a little stuck on that
12 one. But I'm also sympathetic to the earlier
13 suggestion that we have a shakedown cruise of
14 maybe six months in length to see what's good and
15 what's not and so on and so forth. So maybe we
16 can work it out there.

17 My other question was regarding Mr.
18 McKeeman's comments about the intent of the
19 legislation and the commitment that may or may not
20 have been made by staff of this agency. Do you
21 want to respond to that?

22 MR. SCHREMP: Yes, Commissioner Boyd.
23 I'm not quite sure, maybe Mr. McKeeman can
24 clarify, but it's my understanding that initially
25 in our process we were looking at collecting

1 dealer tank wagon or delivered wholesale price to
2 retail outlets from the industry.

3 There was a concern raised by Mr.
4 McKeeman that did you mean all industry. And we
5 responded by saying no, we intended to only
6 collect the DTW from refiners. And there was a
7 concern because we had not, he had not seen
8 language that that was going to be the case in
9 terms of the reporting forms and in the
10 instructions on who should be providing the
11 information.

12 Subsequent to those conversations and
13 commitments, we put into the regulatory package in
14 the language in there specifically calling out
15 that the people who would be providing information
16 on the weekly and monthly basis for dealer tank
17 wagon would only be the refiners per our
18 definition in the regulations. So we clarified in
19 that document that he has been able to review on a
20 couple of occasions.

21 So I believe that is one of the issues
22 that was raised, and that was one of the
23 commitments that was mentioned that we did abide
24 by.

25 And I think we've already covered the

1 ground on the 782 form that we proposed to collect
2 for sales by class of trade by end-use customer
3 that we are trying to get from the CIOMA members
4 who are currently providing said information to
5 the federal government.

6 MR. GLAVIANO: May I just ask this
7 clarification? If Ron Van De Pol's company does
8 not report to the federal government today, are
9 they required to report to us with these
10 regulations?

11 MR. SCHREMP: No.

12 MR. GLAVIANO: So only if they are
13 reporting to the federal government -- thank you
14 for that thoughtful answer --

15 (Laughter.)

16 COMMISSIONER BOYD: Is that really clear
17 in the regulation? Apparently since we've had
18 such consternation today --

19 ACTING CHAIRPERSON PFANNENSTIEL: Right,
20 that seems to --

21 COMMISSIONER BOYD: -- I was confused --

22 ACTING CHAIRPERSON PFANNENSTIEL: Yeah,
23 that seems to be a point of confusion here. I
24 just want to make sure that that's the
25 understanding, and that is what the regulations

1 say.

2 MR. SCHREMP: I believe that the
3 regulations as they are currently written do not
4 specifically state it is only those providing
5 information to EIA. So, based on the
6 conversations we've had here this morning, there
7 needs to be clarification in that document, yes,
8 to specifically state that is our intent.

9 ACTING CHAIRPERSON PFANNENSTIEL: Thank
10 you, I think that's important.

11 I'd like to see if we're ready to act on
12 this item. I think that we did hear a strong,
13 both reason for doing and requirement for
14 gathering data. But I think there remains some
15 concern about the form and the format and the
16 timing.

17 So, perhaps in a motion then we can not
18 only have the clarification we just agreed to, but
19 a clarification that this will be re-examined
20 perhaps by the Executive Director in a period of
21 like six months. Because I think that that would
22 give us enough time to see what's happening. And
23 then bring a report back to the Commission at that
24 time.

25 COMMISSIONER BOYD: Madam Chair, I'd

1 like to bring up one additional item before
2 someone makes a motion.

3 ACTING CHAIRPERSON PFANNENSTIEL:
4 Certainly.

5 COMMISSIONER BOYD: We were just handed
6 a few moments ago an email from Chevron raising
7 questions about the diagrams. And hopefully the
8 staff has that.

9 Mr. Schremp gave a much better answer to
10 that question earlier in the day than admittedly
11 is in the staff response. I had concerns. I
12 guess, as one Commissioner who has some specific
13 duties in the terrorism public safety arena, maybe
14 more than most, I am very sensitive to the
15 revealing of detailed data about our
16 infrastructure or the operations of refineries,
17 but I did think the response relative to the fact
18 that that information is provided for public
19 safety reasons, and that we have a good track
20 record, as established by Mr. Geesman, of
21 protecting confidentiality, that kind of satisfied
22 my concern a little better than the staff
23 response.

24 However, now we have yet another
25 industry member raising that same concern. So, I

1 think I'm satisfied with the staff response, but I
2 am -- I just want to register some degree of
3 concern.

4 I mean, as some of you know, we're going
5 to go through an emergency exercise tomorrow
6 involving the transportation fuel arena here in
7 California. And there is, of course, concern
8 about just how much we publicize how to damage
9 ourselves.

10 So it is a concern, but I think we, as
11 an agency, have an excellent track record in
12 protecting that concern. So at the moment I am
13 persuaded by the staff's point on that issue.

14 ACTING CHAIRPERSON PFANNENSTIEL: Thank
15 you, Commissioner Boyd.

16 Do we have a motion on this item?

17 COMMISSIONER GEESMAN: I'll move it,
18 Madam Chair.

19 COMMISSIONER BOYD: I'll second it.

20 ACTING CHAIRPERSON PFANNENSTIEL: Moved
21 and seconded.

22 All in favor?

23 (Ayes.)

24 ACTING CHAIRPERSON PFANNENSTIEL:

25 Opposed? Passed four to nothing.

1 COMMISSIONER BOYD: Excuse me, but did

2 we --

3 COMMISSIONER GEESMAN: I think we

4 extracted a commitment from --

5 ACTING CHAIRPERSON PFANNENSTIEL: Yes.

6 COMMISSIONER GEESMAN: -- the Executive

7 Director to report back to us. And you and the

8 Chair have made clear that that's to be in six

9 months.

10 COMMISSIONER BOYD: Good.

11 ACTING CHAIRPERSON PFANNENSTIEL: And

12 we'll confirm that. Mr. Matthews, that's --

13 ACTING EXECUTIVE DIRECTOR MATTHEWS:

14 Yes.

15 ACTING CHAIRPERSON PFANNENSTIEL: --

16 understood? Thank you.

17 MS. KATELEY: Thank you.

[BUSINESS MEETING ITEMS NOT RELATED TO THE PROPOSED REGULATIONS TO IMPLEMENT
THE REQUIREMENTS OF THE PETROLEUM INDUSTRY INFORMATION ACT HAVE BEEN REDACTED
FROM THIS COPY OF THE TRANSCRIPT]